



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET- SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

2006 JUN -2 AM 10:14

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CWA-08-2006-0028

IN THE MATTER OF:

BRADEN-DEEM, INC.

RESPONDENT

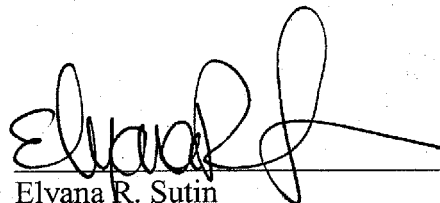
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FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Expedited Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Expedited Consent Agreement, effective immediately upon receipt by Respondents of this Expedited Consent Agreement and Final Order.

06.02.06

DATE



Elyana R. Sutin
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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In the Matter of:

Braden-Deem, Inc.

Respondent.

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) **EXPEDITED CONSENT AGREEMENT**
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) **DOCKET NO.: CWA-08-2006-0028**

Complainant, United States Environmental Protection Agency, Region VIII, and Respondent, Braden-Deem, Inc., by their undersigned representatives, hereby settle the civil cause of action arising out of a spill of oil that occurred on or about June 8, 2005, and violations of the Spill Prevention Control and Countermeasures (SPCC) Plan regulations, and agree as follows:

The Clean Water Act (the Act), as amended, authorizes the Administrator of EPA to assess administrative penalties against any person who discharges oil into or upon the navigable waters and adjoining shorelines of the United States in quantities that have been determined may be harmful to the public health or welfare or environment of the United States, 33 U.S.C. § 1321(b)(6) and (b)(3) or any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This determination includes discharges of oil that (1) violate applicable water quality standards, (2) cause a film, sheen, or discoloration of the surface of the water or the adjoining shoreline, or (3) cause a sludge or emulsion to be deposited beneath the surface of the water or the adjoining shoreline, 40 C.F.R. § 110.3 and the failure to prepare and implement an SPCC plan, in accordance with 40 C.F.R. § 112.7. This authority has been properly delegated to the undersigned EPA official.

Respondent owns and/or operates an oil production facility, Cooper Cove Muddy-Dakota Unit Battery No. 1, located in Carbon County, Wyoming.

Respondent admits that on or about June 8, 2005, its Cooper Cove Muddy-Dakota Unit Battery No. 1 facility discharged an unknown amount of oil into or upon an unnamed wetland that flows into Cooper Creek which is a tributary to Cooper Lake.

Respondent's discharge from its facility caused a sheen upon, or discoloration of, or caused a sludge or emulsion to be deposited on the surface of the wetland.

Respondent's discharge constitutes a violation of Section 311 (b)(3) of the Act.

Respondent admits its facility is subject to the SPCC regulations.

Respondent admits that it failed to prepare and implement an SPCC Plan for its Cooper Cove Muddy-Dakota Unit Battery No. 1 in accordance with 40 C.F.R. § 112.7 and 112.9.

Respondent agrees to correct the cited violations of 40 C.F.R. § 112.7 and 112.9 on the attached list within thirty (30) days unless an extension for achieving compliance is granted by EPA at its discretion.

Respondent agrees to submit a revised copy of the SPCC Plan for its Cooper Cove Muddy-Dakota Unit Battery No. 1 facility to EPA for its review and approval.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives their right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$ 2,450.00; \$500.00 for the discharge of oil in violation of Section 311(b)(3) of the Act and \$1,950.00 for violations of Section 311(j) of the Act, which shall be paid by sending, via certified mail, a cashier's or certified check for that amount, payable to "Oil Spill Liability Trust Fund" along with a signed copy of this agreement, to:

Jane Nakad
Technical Enforcement Program (8ENF-UFO)
USEPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

Respondent states, under penalty of perjury, that they have (1) investigated the cause of the spill, (2) cleaned up the spill pursuant to federal requirements, (3) taken corrective actions to prevent future spills, and (4) Respondent will revise, implement, and maintain an SPCC plan in accordance with 40 C.F.R. § 112.7.

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance or has not cleaned up the discharged oil as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By: Elisabeth Evans
Elisabeth Evans, Director
Technical Enforcement Program

6/1/06
Date

Braden-Deem, Inc., Respondent.

By: Sheryl Deem
May 26, 2006
Date

Name: SHERYL Y. DEEM
Title: PRESIDENT

List of SPCC Violations
Braden-Deem, Inc.
Cooper Cove Muddy-Dakota Unit Battery No. 1

40 C.F.R. § 112.3:

Failure to prepare and implement an SPCC Plan in accordance with 40 C.F.R. § 112.7 and 112.9.

Specific violations found during review of the Plan are:

No provision that Plan be reviewed, amended and certified due to facility changes that affect the potential for a discharge in violation of violation of 40 C.F.R. § 112.5(b).

No written procedures for required inspections and for records to be signed and maintained for three years in violation of 40 C.F.R. § 112.7(e).

No provision for spill prevention briefings to be held periodically, or annually, in violation of 40 C.F.R. § 112.7(f)(3).

No discussion regarding removing accumulated oil from secondary containment and from field drainage ditches, road ditches, and oil traps, sumps or skimmers in violation of 40 C.F.R. § 112.9(b)(1) and (2).

No procedures to inspect foundations and supports of bulk containers in violation of 40 C.F.R. § 112.9(c)(3).

No procedures to inspect saltwater disposal facilities, if any, in violation of 40 C.F.R. § 112.9(d)(2).

No discussion of oil drilling and workover operations in violation of 40 C.F.R. § 112.10. If company hires contractors, then Plan should so state and indicate contractors will be required to have their own SPCC Plan.

No Substantial Harm Certification in violation of 40 C.F.R. § 112.20(e).

Technical violations noted during the inspection

No evidence that required reviews of the plan were conducted in violation of 40 C.F.R. § 112.5(b). Plan was dated 4/28/1994.

No secondary containment for loading/unloading areas in violation of 40 C.F.R. § 112.7(c).

No records of inspections in violation of 40 C.F.R. § 112.7(e).

Discharge briefings not conducted and documented in violation of 40 C.F.R. § 112.7(f)(3).

Inadequate secondary containment for treaters and freewater knockouts in violation of 40 C.F.R. § 112.9(c)(2). Neither was there a catchment basin to contain discharges from undiked areas.

Inadequate inspection and maintenance of tanks and valves in violation of 40 C.F.R. § 112.9(d) as evidenced by leaking main transfer valve and oil stained soil underneath it.

Improper closure of tank not in use in violation of 112.2. The tank must be properly closed or meet all SPCC requirements.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter **BRADEN-DEEM, INC., DOCKET NO.: CWA-08-2006-0028** was filed with the Regional Hearing Clerk on June 2, 2006.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Mike Risner, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on June 2, 2006, to:

Sheryl Deem, President
Braden-Deem, Inc.
P. O. Box 28244
Scottsdale, AZ 85255-0154

And:

Commander – National Pollution Funds Center
U. S. Coast Guard
Finance Center (OGR)
1430 A Kristina Way
Chesapeake, VA 23326

June 2, 2006



Tina Artemis
Regional Hearing Clerk



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